

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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Victor H. P. L.,

Plaintiff,

v.

Martin O'Malley, Acting Commissioner of
 Social Security,

Defendant.

Case No. 2:24-cv-00550-DJA

Order

Before the Court is Plaintiff Victor H. P. L.'s motion for leave to proceed *in forma pauperis*. (ECF No. 1). Because the Court finds that Plaintiff has demonstrated an inability to prepay fees and costs or give security for them, it grants the application. The Court also finds that Plaintiff's complaint has met the basic requirements to satisfy screening. The Court finds these matters properly resolved without a hearing. LR 78-1.

I. Discussion.

A. The Court grants Plaintiff's in forma pauperis application.

Plaintiff has submitted the affidavit required by 28 U.S.C. § 1915(a) showing an inability to prepay fees and costs or give security for them. Plaintiff explains that he has been out of work for more than two years and that his son pays his rent. The Court thus finds that Plaintiff is unable to pay an initial partial filing fee and grants the application to proceed *in forma pauperis*.

B. Plaintiff's complaint passes the Court's screening.

Plaintiff's complaint meets the basic requirements to pass screening. When a plaintiff seeks leave to file a civil case *in forma pauperis*, the court will screen the complaint. See 28 U.S.C. § 1915(e). For social security appeals, judges in this district consider four requirements for complaints to satisfy screening. See, e.g., *Graves v. Colvin*, 2015 WL 357121, *2 (D. Nev. Jan. 26, 2015) (collecting cases). See *id.* First, the complaint must establish that administrative

1 remedies were exhausted under 42 U.S.C. § 405(g) and that the plaintiff filed the application
2 within 60 days after notice of the Social Security Commissioner's final decision. *See id.* Second,
3 the complaint must indicate the judicial district in which the plaintiff resides. *See id.* Third, the
4 complaint must state the nature of the plaintiff's disability and when the plaintiff claims to have
5 become disabled. *See id.* Fourth, the complaint must contain a plain, short, and concise
6 statement identifying the nature of the plaintiff's disagreement with the determination made by
7 the Social Security Administration and show that the plaintiff is entitled to relief. *See id.*

8 Here, Plaintiff's complaint satisfies all four requirements. First, the complaint asserts that
9 Plaintiff has properly sought review under 42 U.S.C. § 405(g) because he applied for disability
10 insurance benefits, which application the Commissioner denied initially and upon
11 reconsideration. Plaintiff requested and participated in a hearing before an administrative law
12 judge (ALJ) who denied Plaintiff's claim. The United States District Court remanded Plaintiff's
13 claim for benefits and, on remand, the ALJ denied Plaintiff's claim on January 19, 2024. Plaintiff
14 did not file exceptions within thirty days of the ALJ decision and the Appeals Council did not
15 assume jurisdiction, making the ALJ decision the final decision subject to review sixty-one days
16 after the date of that decision. Plaintiff filed his application to proceed *in forma pauperis* less
17 than sixty days later. Second, Plaintiff claims to live in the jurisdictional boundaries of this
18 Court. Third, the complaint outlines the nature of Plaintiff's disabilities, and the date Plaintiff
19 became disabled. Fourth, the complaint concisely states Plaintiff's disagreement with the Social
20 Security Administration's determination. Because Plaintiff's complaint meets each of these
21 requirements, it satisfies screening.

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23 **IT IS THEREFORE ORDERED** that Plaintiff's application to proceed *in forma*
24 *pauperis* (ECF No. 1) is **granted** with the caveat that the fees shall be paid if recovery is made.
25 At this time, Plaintiff shall not be required to pay the filing fee.

26 **IT IS FURTHER ORDERED** that Plaintiff is permitted to maintain this action to
27 conclusion without the necessity of prepayment of any additional fees or costs or the giving of
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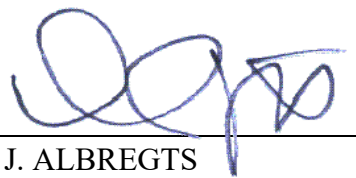
1 security therefor. The Order granting leave to proceed *in forma pauperis* shall not extend to the
2 issuance of subpoenas at government expense.

3 **IT IS FURTHER ORDERED** that the Clerk of Court is kindly directed to file the
4 complaint (ECF No. 1-1).

5 **IT IS FURTHER ORDERED** that the Clerk of Court is kindly directed to provide notice
6 of this action to the Commissioner pursuant to Rule 3 of the Supplemental Rules for Social
7 Security.

8 **IT IS FURTHER ORDERED** that from this point forward, Plaintiff shall serve upon
9 Defendant or, if appearance has been entered by counsel, upon the attorney, a copy of every
10 pleading, motion, or other document submitted for consideration by the Court. Plaintiff shall
11 include with the original paper submitted for filing a certificate stating the date that a true and
12 correct copy of the document was personally served or sent by mail to the Defendant or counsel
13 for the Defendant. The Court may disregard any paper received by a judge which has not been
14 filed with the clerk, and any paper received by a judge or the clerk which fails to include a
15 certificate of service.

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17 DATED: May 2, 2024

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20 DANIEL J. ALBREGTS
21 UNITED STATES MAGISTRATE JUDGE
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